THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 24661 of 1998

22-08-2007

Between:

The Depot Manager,
APSRTC Bus Depot,
Medak Depot

Petitioner

And

M. Ramachandraiah and another.

Respondents.

THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 24661 of 1998

Oral Order:

The Andhra Pradesh State Road Transport Corporation is before this Court assailing the award of the Labour Court-II, Hyderabad dated 26-07-1996 in I.D.No. 155 of 1993. The first respondent-workman was employed as a Conductor with the writ petitioner-Corporation. He was conducting bus No.AAZ 2810 on 27-11-1988 on the route Papannapet-Kodapak. In a departmental check of the bus, on an allegation that the

respondent-workman had violated the rule issue and start and also kept the column of tray numbers of Re.1/- and Rs. 01-25 paise denomination blank in S.R. against the stages 8 and 9, a departmental enquiry was initiated. In the spot check on 27-11-1988, the workman admitted his irregularities but claimed that they were committed erroneously. Eventually, after due process of enquiry, the workman was visited with the penalty of removal from service. The workman laid a claim under Section 2-A (2) of the Industrial Disputes Act, 1947. The Labour Court affirmed the conclusion in the departmental enquiry that the workman had committed the irregularities and was guilty of the charge. No procedural defects in the departmental enquiry were found. However, the Labour Court set aside the punishment of removal from service of the workman and directed the writ petitioner to reinstate the workman into service with all attendant benefits but without back-wages on the ground that only a paltry sum is involved and that the punishment of removal from service was harsh and disproportionate.

The workman was found guilty of misappropriation of the funds of the petitioner-Corporation. The Labour Court having affirmed this conclusion in the departmental enquiry and having regard to the extreme gravity of a charge of misappropriation of employer's funds, found and established in departmental enquiry, misdirected itself in applying the doctrine of proportionality on the perverse

view that the amount misappropriated was paltry. It is the quality of offence, which is a grave one of misappropriation which is determinative for assessing the proportionality of punishment. This is a settled principle.

On the aforesaid analysis, the award of the Labour Court to the extent of setting aside the punishment of removal from service and modifying it to one of reinstatement with attendant benefits in continuity, but without back-wages is unsustainable and is accordingly set aside.

The writ petition is allowed *pro tanto*. There shall however be no order as to costs.

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GODA RAGHURAM, J

Dated: 22-08-2007
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